

FOREIGN CLAIMS SETTLEMENT COMMISSION  
OF THE UNITED STATES  
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

BIO RAMO DRUG COMPANY

Claim No. CU -2323

Decision No. CU 706

Under the International Claims Settlement  
Act of 1949, as amended

Counsel for claimant: Walsh and Levine

PROPOSED DECISION

This claim against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$120,000.00 plus interest, was presented by BIO RAMO DRUG COMPANY and is based upon the asserted loss of bonds issued by The Cuba Railroad Company. Claimant asserts that since 1947, more than 50% of its capital stock was held by nationals of the United States. No evidence has been submitted to establish the nationality of the shareholder or shareholders in claimant corporation.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964) 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term 'property' means any property, right, or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated, intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

Section 504 of the Act provides, as to ownership of claims, that

(a) A claim shall not be considered under Section 503(a) of this title unless the property on which the claim was based was owned wholly or partially, directly or indirectly by a national of the United States on the date of the loss and if considered shall be considered only to the extent the claim has been held by one or more nationals of the United States continuously thereafter until the date of filing with the Commission.

The Regulations of the Commission provide:

The claimant shall be the moving party and shall have the burden of proof on all issues involved in the determination of his claim. FCSC Reg., 45 C.F.R. §531.6(d) (Supp. 1967)

Claimant asserts the ownership and loss of bonds issued by The Cuba Railroad Company. Accordingly, by Commission letter of July 25, 1967, suggestions were made to claimant that it submit the original bonds of The Cuba Railroad Company to establish this claim under the Act. The evidence suggested in the correspondence has not been received to date.

On September 5, 1967, counsel was invited to submit the suggested evidence within 45 days from that date, and he was informed that absent such evidence, it might become necessary to determine the claim on the basis of the existing record. By letter of September 16, 1967, claimant, through counsel, informed the Commission that the claimed bonds would be shown in Florida but could not be brought to Washington.

On September 25, 1967 and October 6, 1967, the Commission again suggested the submission of evidence requested earlier. Claimant, through counsel, advised the Commission in a letter dated October 3, 1967, that the asserted sole stockholder in claimant corporation, one Francis R. Cusumano, would not agree to the submission of the bonds. No evidence has since been submitted.

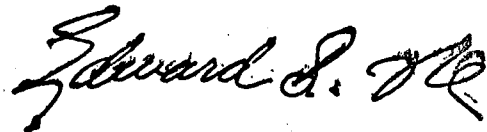
From the foregoing, it is clear that the claimant does not choose to establish its ownership of The Cuba Railroad Bonds. (See the Claim of Steel

Heddle Manufacturing Company, FCSC Claim No. CU-0737).

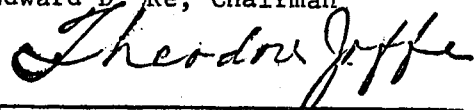
The Commission finds that claimant has not met the burden of proof in that it has failed to establish ownership by a national or nationals of the United States of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Accordingly, this claim is denied. The Commission deems it unnecessary to make determinations with respect to other elements of the claim.

Dated at Washington, D.C.,  
and entered as the Proposed  
Decision of the Commission

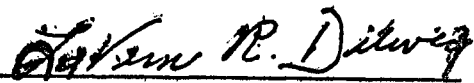
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Edward D. Re, Chairman



Theodore Jaffe, Commissioner



LaVern R. Dilweg, Commissioner

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g) as amended, 32 Fed. Reg. 412-13 (1967).)

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